



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL
120 BROADWAY
NEW YORK, NY 10271

ERIC T. SCHNEIDERMAN
ATTORNEY GENERAL

(212) 416-8050

February 23, 2016

The Honorable Mary Jo White, Chair
Brent J. Fields, Secretary
United States Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: Proposed New Regulations Enhancing Transparency of Alternative Trading Systems (File No. S7-23-15)

Dear Chair White and Mr. Fields,

As the Attorney General of the State of New York, I am charged with enforcing New York's securities fraud statute, General Business Law Article 23-A, commonly known as the Martin Act. I write to express my support and appreciation for the Securities and Exchange Commission's proposed rules governing disclosures regarding alternative trading systems ("ATSS").

In recent years, ATSS have grown in importance to institutional and retail investors, whose orders either trade directly on ATSS, or are otherwise affected by ATSS activity. As the number of ATSS has proliferated, and as the market share of the largest ATSS has grown, ATSS subscribers – or the clients on whose behalf they trade – have become increasingly reliant on ATSS operators to fully and honestly disclose how their trading venues operate, including the manner in which subscriber orders are routed, matched, and executed.

The Commission's new proposed rules are a positive step towards ensuring fairness and transparency for ATSS subscribers. The proposed rules would require detailed disclosure of several topics that my Office and has identified as being especially important for ATSS subscribers to understand, including:

- Segmentation of traders and order flow in the ATSS;
- Use of smart-order routers and algorithms associated with subscriber orders;
- Types or classes of subscribers trading in the ATSS;

The Honorable Mary Jo White, Chair
Brent J. Fields, Secretary
February 23, 2016
Page 2

- Rules governing trading priority or pricing methodology;
- The source and specific purpose of market data used by the ATS; and
- Differences, if any, between products or services offered to different ATS subscribers, or between subscribers and the ATS operator itself (including its affiliates).

Recently, my Office, in conjunction with the Commission's Division of Enforcement, announced resolutions of investigations concerning two of the largest ATS operators. Our investigations determined that those companies were misleading investors about the manner in which their venues operated, how client orders were being routed into their ATSs for execution, and, in certain cases, how the ATS operator gave undisclosed, preferential treatment to high frequency trader subscribers. In both of those matters (and in other matters that the Commission has announced publicly), enhanced disclosures could have avoided at least some of the harmful conduct our offices identified, by ensuring that detailed information was available to subscribers before they traded.

ATSs are colloquially called "dark" pools because orders are, generally, not visible prior to execution. They are not called dark pools because investors are supposed to be in the dark about how they operate. Quite the opposite. The market only works fairly when every participant, large and small, understands all meaningful details about how an ATS operates, how their broker is routing their orders, and whether potentially conflicted business relationships exist between their broker and other market participants.

I applaud the Commission for proposing strong rules to ensure that investors, even the most sophisticated investors, understand how the ATSs in which they trade are operated, and whether their electronic brokers have business relationships that favor certain traders over others. The Commission has taken a meaningful step toward giving traders access to the information they need in order to make informed trading decisions. I believe that these proposed rules will increase public confidence in the markets.

My Office will continue to be diligent in monitoring whether ATS operators are in fact operating consistently with their public representations and their legal obligations. If they are not, we will not hesitate to take action when appropriate.

Respectfully,



Eric T. Schneiderman